

AIR TRANSPORT SERVICES

Agreement signed at Panama March 31, 1949, with annex and schedules

Notice of ratification given by Panama April 14, 1949

Entered into force April 14, 1949

*Annex supplemented by agreements of May 29 and June 3, 1952;¹
and June 5, 1967;² schedule II modified by agreement of
June 5, 1967²*

63 Stat. 2450; Treaties and Other
International Acts Series 1932

AVIATION AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA

PREAMBLE:

WHEREAS the Governments of the United States of America and of the Republic of Panamá are signatories to the International Civil Aviation Convention³ which was formulated by the International Civil Aviation Conference in Chicago in 1944; and

WHEREAS the Government of the Republic of Panamá has constructed a modern airport in its territory, known as Tocumen National Airport, which is located approximately fifteen miles from the border of Panamá City and the Canal Zone, and is now serving international civil aviation; and

WHEREAS the utilization of Tocumen National Airport by airlines of the United States of America and of the Republic of Panamá will further the bonds of friendship and cooperation which now exist between the two Governments; and

WHEREAS it is believed that Tocumen National Airport, if certain provisions are made, may function as a civil airport serving the Canal Zone as well as the Republic of Panamá, thereby benefitting both the Republic of Panamá and the United States of America because of its relation to the Canal Zone; and

WHEREAS the Governments of the United States of America and of the Republic of Panamá consider appropriate, for a clear understanding con-

¹ 3 UST 4087; TIAS 2551.

² 18 UST 1212; TIAS 6270.

³ TIAS 1591, *ante*, vol. 3, p. 944.

cerning the operations of the international civil airline services at Tocumen National Airport, the conclusion of a bilateral air agreement; and

WHEREAS the President of the United States of America and the President of the Republic of Panamá, desiring to enter into appropriate engagements to these ends, have designated for this purpose as their representatives:

His Excellency Monnett B. Davis, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panamá, and

His Excellency Licentiate Ignacio Molino, Jr., Minister of Foreign Relations of the Republic of Panamá, who, having communicated their respective full powers to each other, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

Each Contracting Party grants to the other Contracting Party the rights as specified in the Annex hereto necessary for establishing the international civil air routes and services therein described, whether such services be inaugurated immediately or at a later date at the option of the Contracting Party to whom the rights are granted.

ARTICLE II

Each of the air services so described may be placed in operation as soon as the Contracting Party to whom the rights have been granted by Article I to designate an airline or airlines for the route concerned has authorized an airline for such route, and the Contracting Party granting the rights shall, subject to Article VI hereof, be bound to give the appropriate operating permission to the airline or airlines concerned; provided that the airlines so designated may be required to qualify before the competent aeronautical authorities of the Contracting Party granting the rights under the laws and regulations normally applied by these authorities before being permitted to engage in the operations contemplated by this agreement; and provided that in areas of hostilities or of military occupation, or in areas affected thereby, such operation shall be subject to the approval of the competent authorities.

ARTICLE III

In order to prevent discriminatory practices and to assure equality of treatment, both Contracting Parties agree that:

(a) Each of the Contracting Parties may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control. Each of the Contracting Parties agrees, however, that these charges shall not be higher than would be paid for the use of such airports and facilities by its national aircraft engaged in similar international services.

(b) Fuel, lubricating oils and spare parts introduced into areas with respect to which one Contracting Party has jurisdiction by the other Contracting Party or its nationals, and intended solely for use by aircraft of the airlines of such other Contracting Party shall, with respect to the imposition of customs duties, inspection fees or other national duties or charges by the Contracting Party having jurisdiction of such areas, be accorded the same treatment as that applying to national airlines and to airlines of the most favored nation.

(c) The fuel, lubricating oils, spare parts, regular equipment and aircraft stores retained on board civil aircraft of the airlines of one Contracting Party authorized to operate the routes and services described in the Annex shall, upon arriving in or leaving the areas with respect to which the other Contracting Party has jurisdiction, be exempt from customs, inspection fees or similar duties or charges, even though such supplies be used or consumed by such aircraft on flights in those areas.

ARTICLE IV

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party and still in force shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services described in the Annex. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above areas with respect to which it has jurisdiction, certificates of competency and licenses granted to its own nationals by another State.

ARTICLE V

(a) Subject to Article XVII hereof, the laws and regulations of one Contracting Party relating to the admission to or departure from areas with respect to which it has jurisdiction of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within those areas, shall be applied to the aircraft of the airlines designated by the other Contracting Party, and shall be complied with by such aircraft upon entering or departing from or while within those areas.

(b) Subject to Article XVII hereof, the laws and regulations of one Contracting Party as to the admission to or departure from areas with respect to which it has jurisdiction of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew or cargo of the other Contracting Party upon entrance into or departure from, or while within those areas.

ARTICLE VI

Each Contracting Party reserves the right to withhold or revoke the exercise of the rights specified in the Annex to this Agreement by an airline

designated by the other Contracting Party in the event that it is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other Contracting Party, or in case of failure by such airline to comply with the laws and regulations referred to in Article V hereof, or otherwise to fulfill the conditions under which the rights are granted in accordance with this Agreement and its Annex.

ARTICLE VII

The Contracting Parties agree that this Agreement and all contracts connected therewith shall be registered with the International Civil Aviation Organization.

ARTICLE VIII

Existing rights and privileges relating to air transport services which may have been granted previously by either of the Contracting Parties to the benefit of an airline of the other Contracting Party shall continue in force according to their terms.

ARTICLE IX

Either of the Contracting Parties may at any time notify the other of its intention to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. In the event such communication is made, this Agreement shall terminate one year after the date of receipt of the notice to terminate, unless by agreement between the Contracting Parties the communication under reference is withdrawn before the expiration of that time. If the other Contracting Party fails to acknowledge receipt, notice shall be deemed as having been received 14 days after its receipt by the International Civil Aviation Organization.

ARTICLE X

In the event either of the Contracting Parties considers it desirable to modify the routes or conditions set forth in the attached Annex, it may request consultation between the competent authorities of both Contracting Parties, such consultation to begin within a period of sixty days from the date of the request. When these authorities mutually agree on new or revised conditions affecting the Annex, their recommendations on the matter will come into effect after they have been confirmed by an exchange of diplomatic notes.

ARTICLE XI

If a general multilateral air transport convention accepted by both Contracting Parties enters into force with respect to both Contracting Parties, the present Agreement shall be amended so as to conform with the provisions of such Convention.

ARTICLE XII

Except as otherwise provided in this Agreement or its Annex, any dispute between the Contracting Parties relative to the interpretation or application of this Agreement or its Annex, which cannot be settled through consultation, shall be submitted for an advisory report to a tribunal of three arbitrators, one to be named by each Contracting Party, and the third to be agreed upon by the two arbitrators so chosen, provided that such third arbitrator shall not be a national of either Contracting Party. Each of the Contracting Parties shall designate an arbitrator within two months of the date of delivery by either party to the other party of a diplomatic note requesting arbitration of a dispute; and the third arbitrator shall be agreed upon within one month after such period of two months. If the third arbitrator is not agreed upon, within the time limitation indicated, the vacancy thereby created shall be filled by the appointment of a person, designated by the President of the Council of the International Civil Aviation Organization, from a panel of arbitral personnel maintained in accordance with the practice of the International Civil Aviation Organization. The executive authorities of the Contracting Parties will use their best efforts under the powers available to them to put into effect the opinion expressed in any such advisory report. A moiety of the expenses of the arbitral tribunal shall be borne by each party.

ARTICLE XIII

Changes made by either Contracting Party in the routes described in the schedules attached, except those which change the points served by these airlines in areas with respect to which the other Contracting Party has jurisdiction, shall not be considered as modifications of the Annex. The aeronautical authorities of either Contracting Party may therefore proceed unilaterally to make such changes, provided, however, that notice of any change is given without delay to the aeronautical authorities of the other Contracting Party.

If such other aeronautical authorities find that, having regard to the principles set forth in Section VII of the Annex to the present Agreement, interests of their air carrier or carriers are prejudiced by the carriage by the air carrier or carriers of the first Contracting Party of traffic between areas with respect to which the second Contracting Party has jurisdiction and the new point in areas with respect to which the third country has jurisdiction, the authorities of the two Contracting Parties shall consult with a view to arriving at a satisfactory agreement.

ARTICLE XIV

The Government of the United States of America will supply, subject to the availability of suitable personnel and appropriated funds for the purpose, a civil aviation mission to aid the Government of the Republic of Panamá

in the development of its civil aviation, including technical assistance, if such a mission is requested by the Government of Panamá. The terms and conditions concerning the provision and operation of such a mission will be determined by an exchange of notes between the Government of the United States and the Government of Panamá.⁴

The Government of the United States of America will render without cost to the Government of the Republic of Panamá such technical advice with respect to sanitation at Tocumen National Airport as may be requested by the Government of Panamá.

The Government of the United States of America will make available a certain communications cable for use in connection with operations at Tocumen National Airport, Panamá City, and the Canal Zone, according to terms and conditions concerning the installation, operation and maintenance of this cable for commercial as well as official use, which will be determined by an exchange of notes entered into this day between the Government of the United States of America and the Government of the Republic of Panamá.⁵

ARTICLE XV

It is recognized by both Governments that increasing traffic of commercial, private and military aircraft, which presently operate from seven airports and seaplane bases located in close proximity on the Isthmus of Panamá, requires a coordinated system of air traffic control in the interests of flight safety.

It is therefore agreed that there shall be consultation between the appropriate authorities of both Governments for the purpose of establishing by mutual agreement uniform rules of the air and procedures for the provision of air traffic control services and there shall be frequent consultations thereafter concerning the implementation of such regulations.

ARTICLE XVI

It is recognized by both Governments that commercial air operations require adequate radio facilities and personnel for the transmission of air-ground-air messages and point to point messages. The Government of the United States of America agrees to assist in the provision of this essential service by relaying authorized air-ground-air and point to point messages which are received by its civil air communications station in the Canal Zone to the air communications center at Tocumen National Airport by means of the cable communications link to be established. The civil air communications station in the Canal Zone will also transmit such messages relayed to it from the air communications center at Tocumen National Airport. This

⁴ TIAS 1932, *post*, p. 874.

⁵ TIAS 1932, *post*, p. 869.

service will be provided as long as the civil air communications station is in operation in the Canal Zone or until this agreement is terminated, or suspended, which ever occurs soonest, and it is agreed that United States aircraft and United States airlines will be permitted the use of this service as long as it may be provided.

It is also recognized that coordination of operations between the air communications center at Tocumen National Airport and the air communications stations now operating in the Canal Zone is required in order to avoid radio interference which might endanger the safety of aircraft in flight. Therefore, both Governments agree that there shall be frequent consultation between the appropriate authorities of their respective communications centers for the purpose of reaching mutually satisfactory accords concerning their respective scope of operations, the use of radio frequencies, and other operational problems.

ARTICLE XVII

In order to facilitate the movement of passengers, cargo, and mail arriving at Tocumen National Airport destined to the Canal Zone, the Government of the Republic of Panamá agrees to furnish to the Government of the United States of America free of charge the necessary and adequate space and housing for the exercise of control, inspection and processing of such passengers, cargo and mail at Tocumen National Airport. The Government of the United States of America agrees that its officials engaged in these functions will perform them only in such space and housing to be furnished by the Government of the Republic of Panamá.

The closest cooperation and interchange of information shall exist between the inspection services of the two Governments and there shall be consultation from time to time between the authorities of the two Contracting Parties concerning these services. Procedures shall be established whereby the officials responsible for the customs, immigration and public health procedures of the Republic of Panamá shall deliver to the officials responsible for the customs, immigration and public health procedures of the United States of America at Tocumen National Airport all passengers and cargo destined for the Canal Zone for control, inspection and processing.

With regard to persons departing from Tocumen National Airport who are the immigration responsibility of the United States of America in the Canal Zone, the immigration authorities of Panamá will accept as a departure permit, and will require presentation of, satisfactory evidence of authorization to depart issued by the appropriate authorities of the United States of America in the Canal Zone.

Cargo arriving at or departing from Tocumen National Airport which is destined for or originates in the Canal Zone shall be exempt from duties, taxes or fees of any kind by the Republic of Panamá. Cargo arriving at Tocumen National Airport which is destined for the Canal Zone shall be

subjected by the Government of the United States of America to the same regulation and restrictions as are applied in the case of cargo arriving at ports of the Canal Zone.

Passengers, cargo and mail originating in the Canal Zone and destined for shipment from Tocumen National Airport, or arriving at Tocumen National Airport and destined for the Canal Zone will have the right of free transit through the territory under the jurisdiction of the Republic of Panamá between the Canal Zone and Tocumen National Airport.

Mail posted in the Canal Zone may be delivered in the Canal Zone by postal authorities of the Canal Zone directly to airlines designated by such authorities to fly such mail from Tocumen National Airport; and airlines arriving at Tocumen National Airport bearing mail destined for the Canal Zone may deliver such mail directly to the postal authorities of the Canal Zone in the Canal Zone.

In view of the mutual interest of the two Governments in quarantine measures to safeguard health in the Republic of Panamá and in the Canal Zone, the health authorities of the two Governments will consult together from time to time regarding quarantine measures and their enforcement at Tocumen National Airport.

Both Governments agree that there shall be the closest cooperation between their respective authorities with respect to measures and procedures at Tocumen National Airport concerning immigration, customs, quarantine and sanitation, and that there shall be consultations from time to time as required concerning such measures and procedures and their enforcement.

ARTICLE XVIII

For the purposes of the present Agreement and its Annex, except where the text indicates otherwise:

(a) The term "aeronautical authorities" shall mean in the case of the United States of America, the Civil Aeronautics Board or any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board and, in the case of Panamá, the Ministry which regulates aviation for the Republic of Panamá or any person or entity authorized to perform the functions exercised at present by the said Ministry.

(b) The term "designated airline" shall mean the airline or airlines that the aeronautical authorities of one of the Contracting Parties shall have designated to operate the agreed air routes in accordance with Article II of this Agreement, it being an indispensable requirement that such designation be communicated in writing to the aeronautical authorities of the other Contracting Party.

(c) The term "air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo.

(d) The term "international air service" shall mean an air service which passes through the air space over areas with respect to which more than one State has jurisdiction.

(e) The term "airline" shall mean any air transport enterprise offering or operating an international air service.

(f) The term "stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

(g) The phrase "persons who are the immigration responsibility of the United States of America in the Canal Zone" shall mean those persons who are admitted to the Canal Zone in accordance with the Canal Zone immigration laws and regulations and who thereby become the immigration cases and responsibility, including repatriation responsibility, of the United States Government.

(h) The term "cargo" includes any and all livestock, baggage, property, goods and merchandise.

ARTICLE XIX

The provisions of this Agreement shall not affect the rights and obligations of either of the two High Contracting Parties under the treaties now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations, but without prejudice to the full force and effect of the provisions of this Agreement.

ARTICLE XX

This Agreement, including the provisions of the Annex thereto, shall come into force on the day on which notice of its ratification by the Government of the Republic of Panamá is given to the Government of the United States of America.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

Done at the City of Panamá in duplicate, in the English and Spanish languages, this thirty-first day of March, 1949.

For the Government of the United States of America:

MONNETT B. DAVIS [SEAL]

For the Government of the Republic of Panamá:

IGNACIO MOLINO Jr. [SEAL]

ANNEX

SECTION I

The Government of the Republic of Panamá grants to the Government of the United States of America the right to conduct air transport services by one or more air carriers of the United States nationality designated by the

latter country on the routes, specified in Schedule One attached, which transit or serve commercially the areas with respect to which the Republic of Panamá has jurisdiction.

SECTION II

The Government of the United States of America grants to the Government of the Republic of Panamá the right to conduct air transport services by one or more air carriers of Panamanian nationality designated by the latter country on the routes, specified in Schedule Two Attached, which transit or serve commercially the areas with respect to which the United States of America has jurisdiction.

SECTION III

One or more air carriers designated by each of the Contracting Parties under the conditions provided in this Agreement will enjoy, in the areas with respect to which the other Contracting Party has jurisdiction, rights of transit and of stops for non-traffic purposes, as well as the right of commercial entry and departure for international traffic in passengers, cargo and mail at the points enumerated on each of the routes specified in the schedules attached.

SECTION IV

The air transport facilities available hereunder to the traveling public shall bear a close relationship to the requirements of the public for such transport.

SECTION V

There shall be a fair and equal opportunity for the carriers of the Contracting Parties to operate on any route between the areas with respect to which they respectively have jurisdiction covered by this Agreement and Annex.

SECTION VI

In the operation by the air carriers of either Contracting Party of the trunk services described in the present Annex, the interests of the air carriers of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

SECTION VII

It is the understanding of both Contracting Parties that services provided by a designated air carrier under the present Agreement and Annex shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such air carrier is a national and the country of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in the present

Annex shall be applied in accordance with the general principles of orderly development to which both Contracting Parties subscribe and shall be subject to the general principle that capacity should be related:

- (a) To traffic requirements between the country of origin and the countries of destination;
- (b) To the requirements of through airline operation; and
- (c) To the traffic requirements of the area through which the airline passes after taking account of local and regional services.

However, because a unique situation exists concerning the Canal Zone by reason of the relationship arising out of certain treaties between the United States of America and the Republic of Panamá, and as it is desired to develop air services to and from Tocumen National Airport and to establish Tocumen National Airport as a civil airport serving the Canal Zone as well as the territory with respect to which the Republic of Panamá has jurisdiction, and in view of the fact that Albrook Air Force Base has heretofore been used as the airfield from which Panamá City and the Canal Zone were served, and airlines of the United States of America and of the Republic of Panamá have originated and terminated services from the Canal Zone to various of the American Republics from Albrook Air Force Base, it is agreed that airlines designated by the Government of the United States of America to operate air services on the routes described in Schedule One of this Annex shall, with respect to the capacity provisions of this section, be permitted to embark and disembark, at Tocumen National Airport, passengers, mail and cargo destined to or from the Canal Zone, as if such passengers, mail and cargo were embarked and disembarked at an airport situated in the Canal Zone.

SECTION VIII

It is the intention of both Contracting Parties that there should be regular and frequent consultation between their respective aeronautical authorities and that there should thereby be close collaboration in the observance of the principles and the implementation of the provisions outlined in the present Agreement and Annex.

SCHEDULE ONE

Airlines designated by the Government of the United States of America shall be entitled to operate air services on the air routes specified below, via intermediate points, in both directions, and to exercise the rights granted in the foregoing Agreement and Annex at the points specified below:

1. The United States of America, via points in the United Mexican States, and/or Central America, to David and to Panamá City and to points beyond in other countries.

2. The United States of America via points in the Caribbean and/or South America to Panamá City and to points beyond in other countries.

3. The United States of America via points in the Caribbean to Panamá City and to points beyond in other countries.

4. Panamá City and the Canal Zone (each being served through Tocumen National Airport) to points in the Western Hemisphere.

On the above routes, the airline or airlines authorized to operate the route may operate nonstop flights between any of the points enumerated, omitting stops at one or more of the other points so enumerated.

SCHEDULE TWO

Airlines designated by the Republic of Panamá are accorded in the territory of the United States of America rights of transit and non-traffic stop, as well as the right to pick up and discharge international traffic in passengers, cargo and mail at a point or points in the United States to be agreed to at a later date.